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12
13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 JARED EDWARDS,

16 Plaintiff,

17 v.

18 KEENEN IVORY WAYANS,
19 ET AL.,

Defendants.

CASE NO. CV10- 2231 R (RCx)

[Assigned to Hon. Manuel L. Real
Courtroom 8]

**[PROPOSED] SECOND AMENDED
FINAL PRE-TRIAL CONFERENCE
ORDER**

Trial Date: July 12, 2011

20 Following pretrial proceedings, pursuant to Rule 16, F.R.Civ.P. and L.R. 16,
21 IT IS ORDERED:

22 **1. The parties are:** Plaintiff Jared Edwards;
23 Defendant Keenen Ivory Wayans;
24 Defendant Shawn Wayans;
25 Defendant Marlon Wayans;
Defendant Wayans Bros. Productions; and
Defendant St. Martin's Press, LLC.

26 The pleadings which raise the issues are: (i) Plaintiff's Amended Complaint;
27 (ii) Defendants' Keenen Ivory Wayans, Shawn Wayans, Marlon Wayans and

1 Wayans Bros. Productions Second Amended Answer to Plaintiff's Complaint; and
2 (iii) the Answer by St. Martin's Press, LLC.

2 **2. Federal jurisdiction and venue are invoked upon the grounds:**

3 The Court has jurisdiction over Plaintiff's claims arising under the Copyright
4 Act pursuant to 28 U.S.C. § 1338(a). The Court has supplemental jurisdiction over
5 Plaintiff's related claim arising under state law pursuant to 28 U.S.C. § 1337(a).
6 Venue is proper in this district pursuant to 28 U.S.C. § 1400(a), as Defendants and/or
7 Defendants' agents reside and may be found in this district.

8 The facts requisite to federal jurisdiction are admitted.

9 **3. Based upon the Court's prior order, Plaintiff shall be afforded 10
10 hours at trial and Defendants shall be afforded 8 hours at trial. The Court has
11 set the trial by jury for July 12, 2011.**

12 **4. The trial is to be a jury trial.**

13 **At least seven (7) days prior to the trial date each party shall file and serve
14 by e-mail, fax, or personal delivery: (a) proposed jury instructions as required
15 by L.R. 51-1 and (b) any special questions requested to be asked on voir dire.**

16 **5. The following facts are admitted and require no proof:**

17 (i) St. Martin's Press, LLC is a New York Limited Liability
18 Company with its principal place of business at 175 Fifth Avenue, New York,
19 New York.

20 (ii) Defendant Wayans Bros. Productions is a production company
21 and California corporation located at 8730 Sunset Blvd, Suite 290, West
22 Hollywood, CA 90069. Defendants Keenen Ivory, Shawn and Marlon
23 Wayans each own one-third of Defendant Wayans Bros. Productions.

24 (iii) The work entitled "You know you're a Gold Digger when..." was
25 registered with the United States Copyright Office, Registration Number TXU
26 1-612-358 effective August 23, 2009, and the registration identifies Jared
27 Edwards as the purported author.

28 **6. The following facts, though stipulated, shall be without prejudice to
any evidentiary objection:**

29 (i) The book entitled "150 Ways to Tell You're Ghetto" was
30 published by Dell Publishing, a division of Bantam Doubleday Dell
31 Publishing, Inc., copyright 1997 and co-authored by Shawn Wayans, Chris
32 Spencer, and Suli McCullough.

33 (ii) The book entitled "101 Ways to Know You're a Golddigger" was
34 registered with the United States Copyright Office, Registration Number TX
35 7-064-388 effective July 6, 2009 by co-authors by Keenen Ivory Wayans,
36 Shawn Wayans, and Marlon Wayans.

37 (iii) The *Keenen Ivory Wayans Show* aired in original seasons from
38 August 1997 until March 1998.

1 (iv) The *Wayans Bros.* sitcom aired in original seasons from Jan. 1995
2 to May 1999.

3
4 **7. Plaintiff:**

5 **(a) Plaintiff plans to pursue the following claims against the following
Defendants:**

6 Claim 1: All Defendants infringed Plaintiff's copyright in violation
7 of the Copyright Act, 17 U.S.C. §§ 101 *et seq.*

8 Claim 2: *Plaintiff's statement of Claim 2:* Defendants Keenen Ivory
9 Wayans, Shawn Wayans, Marlon Wayans and Wayans
Bros. Productions breached an implied contract with
Plaintiff under California law.

10 *Defendants' statement of Claim 2:* Defendants Keenen
11 Ivory Wayans, Shawn Wayans, Marlon Wayans and
12 Wayans Brothers Productions breached an implied promise
to pay Plaintiff for use of his ideas.

13 Defendants maintain that Plaintiff needs to clarify the
14 breach of implied contact on Plaintiff's prior
15 representations that it seeks a Desny claim for breach of an
implied in fact contract for the sale of ideas contained in his
alleged work under California law.

16 **(b) The Elements Required to Establish Plaintiff's Claims Are**

17 Plaintiff and Defendants' Statement of elements for copyright
infringement under the Copyright Act:

18 (1) Plaintiff is the owner of a valid copyright; and
19 (2) Defendants copied original elements from the copyrighted work.
20 (3) Defendants contend that proof of actual damages and/or profits
attributable to the infringement is an "element" of Plaintiff's
Copyright infringement claim because Plaintiff is barred from
recovery of statutory damages. Plaintiff contends that such
damages will be demonstrated by proof at trial, but are not an
"element" of the claim.

21
22 Plaintiff's statement of elements for breach of implied contract under
California law:

23 (1) Plaintiff prepared the work;
24 (2) Plaintiff disclosed the work to Defendants for sale;
25 (3) Plaintiff did so under circumstances from which it could be
concluded that Defendants voluntarily accepted the disclosure
knowing the conditions on which it was tendered and the
reasonable value of the work; and
26 (4) Defendants breached the implied in fact contract with Plaintiff.

1 Defendants' statement of elements for breach of implied contract under
2 California law:

- 3 1. Plaintiff submitted his ideas to Defendants and Defendants received
4 them
- 5 2. Before Plaintiff submitted his ideas to Defendants, he-conditioned his
6 disclosure upon Defendants' agreement to pay for those ideas of
7 Plaintiff's which the Defendants used, if any
- 8 3. Defendants knew, or should have known, the condition upon which
9 the disclosure was being made before the disclosure was made.
- 10 4. Defendants had the opportunity to reject the attempted disclosure if
11 the conditions were unacceptable
- 12 5. Defendants voluntarily accepted the submission on Plaintiff's terms
13 and thereby impliedly agreed to pay plaintiff for any of his ideas
14 which they might use.
- 15 6. Defendants breached the implied in fact contract with Plaintiff.

16 *See Farris v. Enberg, 97 Cal.App.3d 309, 318 (1979, see also Aliotti v.
17 R.Dakin & Co., 831 F.2d 898, 902 (9th Cir. 1987)).* (citing Desny at 744).

- 18 7. Defendants contend that proof of damages resulting from breach of
19 the implied contract is an "element" of the claim. Plaintiff contends
20 that such damages will be demonstrated by proof at trial, but are not
21 an "element" of the claim.

22 (c) **In brief, the key evidence Plaintiff relies on for each of the claims is:**

23 Copyright infringement under the Copyright Act:

- 24 (1) Plaintiff's copyright registration; Plaintiff's registration with the
25 Writer's Guild of America; drafts of Plaintiff's manuscript;
26 correspondence among Defendants; Defendants' Interrogatory
27 Responses and Declarations submitted in this case; draft artwork;
28 Plaintiff's deposition testimony and anticipated trial testimony;
[PROPOSED] SECOND AMENDED FINAL PRE-TRIAL CONFERENCE ORDER
- (2) Plaintiff's copyright registration; Plaintiff's registration with the
Writer's Guild of America; drafts of Plaintiff's manuscript;
correspondence among Defendants; Defendants' Interrogatory

1 Responses and Declarations submitted in this case; draft artwork;
2 Plaintiff's deposition testimony and anticipated trial testimony;
3 Defendants Shawn Wayans, Marlon Wayans and Keenen Ivory
4 Wayans' deposition testimony and anticipated trial testimony;
5 anticipated trial testimony of Ahyoung N. Kim, former V.P.
6 Product Development for the Wayans Defendants, concerning the
7 development of Plaintiff's book and Defendants' infringing book;
8 anticipated trial testimony of current and former employees of
9 Defendants concerning the development of Plaintiff's book and
10 Defendants' infringing book; Defendants' annual profit and loss
11 statements; Defendants' contracts and correspondence concerning
12 their infringing book and the publication of Plaintiff's book
13 without attribution.

14 **Breach of implied contract under California law:**

15 (1) Drafts of Plaintiff's manuscript; correspondence among
16 Defendants; Plaintiff's deposition testimony and anticipated trial
17 testimony; Defendants Shawn Wayans, Marlon Wayans and
18 Keenen Ivory Wayans' deposition testimony and anticipated trial
19 testimony; anticipated trial testimony of Ahyoung N. Kim, former
20 V.P. Product Development for the Wayans Defendants,
21 concerning the development of Plaintiff's book and Defendants'
22 infringing book; anticipated trial testimony of current and former
23 employees of Defendants concerning the development of
24 Plaintiff's book.

25 (2) Drafts of Plaintiff's manuscript; correspondence among
26 Defendants; Plaintiff's deposition testimony and anticipated trial
27 testimony; Defendants Shawn Wayans, Marlon Wayans and Keenen Ivory
28 Wayans' deposition testimony and anticipated trial testimony.

1 **Defendants:**

2 (a) **Defendants plan to pursue the following affirmative defenses:**

3 **Affirmative Defense 1 to Copyright Claim (work made for hire):**
4 Plaintiff is not the owner of a valid copyright because, pursuant to 17
5 U.S.C § 201(b), Defendants Keenen Ivory Wayans, Shawn Wayans,
6 Marlon Wayans and Wayans Bros. Productions as Plaintiff's employers
7 are considered the author for purposes of this title, and own all of the
8 rights comprised in the copyright. As a result, Plaintiff cannot maintain
9 a valid copyright claim against any of the named Defendants.

1 Affirmative Defense 2 to Copyright Claim (joint authorship): In the
2 alternative, Plaintiff is not the owner of a valid copyright because,
3 pursuant to 17 U.S.C § 201(c), because at most, Defendants Keenen
4 Ivory Wayans, Shawn Wayans, Marlon Wayans and Wayans Bros.
5 Productions jointly authored the work with Plaintiff and as a result
6 Defendants Keenen Ivory Wayans, Shawn Wayans, Marlon Wayans and
7 Wayans Bros. Productions own an undivided right comprised in the
8 copyright to the whole. As a result, Plaintiff cannot maintain a valid
9 copyright claim against any of the named Defendants.

10 Affirmative Defense 3 to Copyright Claim (waiver): Plaintiff waived
11 his right, if any, to a copyright in the work at issue and consented to any
12 alleged use by Defendants.

13 Affirmative Defense 1 to Breach of Implied-in-Fact Contract (waiver):
14 Plaintiff waived performance by the Wayans Defendants.

15 Affirmative Defense 2 to Breach of Implied-in-Fact Contract (statute of
16 limitations): Plaintiff's claim for breach of implied in fact contract is
17 barred by the applicable statute of limitations found in California Code
18 of Civil Procedure Section 339.

19 Affirmative Defense 3 to Breach of Implied-in-Fact Contract (laches):
20 Plaintiff's claim for breach of implied-in-fact contract is barred in whole
21 by the doctrine of laches because Plaintiff as unreasonably delayed in
22 bringing this action for breach of implied-in-fact contract.

23 Affirmative Defense 4 to Breach of Implied-in-Fact Contract (estoppel):
24 Plaintiff is equitably estopped from asserting a breach of implied in fact
25 contract claim against the Wayans Defendants.

26 **(b) The elements required to establish Defendants' affirmative defenses
27 are as follows:**

28 Elements for Affirmative Defense 1 to Copyright Claim: "Work Made For
Hire":

19 (i) Defendants' Statement of Elements: A work made for hire
20 is one that is prepared by (i) an employee, (ii) in carrying
21 out the employer's business and within the scope of the
22 employee's employment.
23 Defendants contend that Plaintiff's status as a full time
24 employee is beyond dispute and Plaintiff has conceded this
25 issue, in any event, by failing to dispute it in opposing
26 Defendants' Motion for Summary Judgment.

27 The determination of whether work was carried out in the
28 scope of the employee's employment includes
29 consideration of (a) whether the work was the kind of work
30 Plaintiff was employed to perform, (b) whether Plaintiff
31 created work substantially within work hours and space,
32 and (c) work was actuated by a desire to serve the
33 employer, *See NCMJI at 17.9; 17 U.S.C. §201(b).*

(ii) Plaintiff's Statement of Elements: A work made for hire is one that is prepared by (i) an employee, (ii) in carrying out the employer's business and within the scope of the employee's employment.

To determine whether the creator of a work was an employee or an independent contractor under common-law agency principles, the following eleven factors, none of which are individually dispositive, are relevant considerations: (a) the skills required to create the work (b) the source of the tools or instruments used to create the work; (c) the source of the tools or instruments used to create the work; (d) the source of the tools or instruments used to create the work; (e) tax treatment of the creator by the employer; (f) whether the creator had discretion over when and how long to work; (g) whether the employer had the right to assign additional projects to the creator; (h) duration of the relationship between the parties; (i) the method of payment; (j) whether the creator hired (or could have hired) and paid his or her own assistants; and (k) whether the employer is a business.

To determine whether an employee created a work "in carrying out the employer's business and within the scope of the employee's employment," each of the following three questions must be answered in the affirmative: (a) is it the kind of work the author is employed to perform?; (b) was the work created substantially within authorized work hours and space?; and (c) was the work created for the purpose of serving the employer?

Elements for Alternative Affirmative Defense 2 to Copyright Claim: “Joint Authorship”:

(i) Defendants' Statement of Elements: A work is a joint work under the Act where (1) there are at least two authors of the work and (2) each author has made a substantial and valuable contribution to the work; (3) each author intended that their contributions be merged into inseparable or interdependent parts of a unitary whole; and (4) each author contributed material to the joint work which could have been independently copyrighted. *See NCMJI at 17.7; see also Siegel v. Time Warner, Inc.*, 496 F. Supp. 2d 1111, 1144 (C.D. Cal. 2007).

(ii) *Plaintiff's Statement of Elements*: A work is a joint work under the Act where: (1) each author has made a substantial and valuable contribution to the work; (2) each author must have intended that their contributions be merged into inseparable or interdependent parts of a unitary whole; (3) each author must have fully intended to be joint authors; and (4) each author contributed material to the joint work which could have been independently copyrighted.

Elements for Affirmative Defense 3 to Copyright Claim: "Waiver": Plaintiff intentionally relinquished his rights in the work with full knowledge of their existence and with the intent to relinquish them. That is, Plaintiff engaged in conduct from which defendants may properly infer that Plaintiff consented to his use. Consent to use the copyrighted work need not be manifested verbally and may be inferred based on silence where the Plaintiff knows of the use and encourages it.

1 Elements for Affirmative Defense 1 to Breach of Implied-in-Fact Contract
2 (waiver):

3 *(i) Defendants' Statement of Elements:* (1) Plaintiff claims
4 that the Wayans Defendants were required to pay Plaintiff for his
5 service of dropping off the manuscript; and (2) Plaintiff freely and
6 knowingly gave up his right to have the Wayans Defendants perform
7 this obligation. 1-300 Judicial Council of California Civil Jury
8 Instructions ("CACI") 336.

9 *(ii) Plaintiff's Statement of Elements:* Plaintiff intentionally
10 relinquished his rights in the work with full knowledge of their existence
11 and with the intent to relinquish them.

12 Elements for Affirmative Defense 2 to Breach of Implied-in-Fact Contract
13 (statute of limitations):

14 Plaintiff filed his lawsuit more than two years after the alleged cause of
15 action for breach of implied in fact contract accrued and as a result,
16 Plaintiff's claim is barred by the applicable statute of limitations found
17 in California Code of Civil Procedure Section 339.

18 Elements for Affirmative Defense 3 to Breach of Implied-in-Fact Contract
19 (laches):

20 (1) Plaintiff delayed in asserting a right or a claim; (2) the delay was not
21 reasonable or excusable; and (3) prejudice to the party against whom
22 laches is asserted. *Miller v. Glenn Miller Productions, Inc.*, 454 F.3d
23 975, 997 (9th Cir. 2006).

24 Elements for Affirmative Defense 4 to Breach of Implied-in-Fact Contract
25 (estoppel):

26 (1) Plaintiff misrepresented and/or concealed matters of fact as to the
27 basis for the breach of implied in fact contract; (2) Plaintiff intended that
28 the Wayans Defendants act upon the assumption of the truth of that
fact(s); (3) the Wayans Defendants were ignorant of the true facts; and
Plaintiff. *See Banco Mercantil, S. A. v. Sauls, Inc.*, 140 Cal. App. 2d
316, 323 (1956).

29 (c) **In brief, the key evidence Defendants rely on for each of their**
30 **affirmative defenses is:**

31 Key Evidence for Affirmative Defense 1 to Copyright Claim:

32 (1) based on the testimony of Plaintiff and Wayans Defendants,
33 Plaintiff was their full-time employee and the work, to the extent
34 Plaintiff contributed, was one prepared by him as full-time employee.

35 (2) based on Plaintiff's testimony, testimony of the Wayans
36 Defendants, former co-workers of Plaintiff, the testimony of Ahyoung
37 Kim, Shane Miller, David Torres, and documentary exhibits, and

1 Plaintiff will establish that Plaintiff's contribution was in the course and
2 scope of his employment.

3 Key Evidence for Affirmative Defense 2 to Copyright Claim:

4 (1) at most, the Wayans Defendants (Defendants Keenen Ivory
5 Wayans, Shawn Wayans, Marlon Wayans and Wayans. Bros.
6 Productions) authored the work jointly with Plaintiff based on Plaintiff's
7 testimony as well as testimony of Wayans Defendants.

8 (2) based on Plaintiff's own testimony Plaintiff claims he contributed
9 to the work in question substantially.

10 (3) based on testimony of Plaintiff and Wayans Defendants, each
11 author intended that their contributions be merged into inseparable or
12 interdependent parts of a unitary whole.

13 (4) based on testimony of Plaintiff and the written exhibits, each
14 author contributed material to the joint work which could have been
15 independently copyrighted

16 Key Evidence for Affirmative Defense 3 to Copyright Claim:

17 (1) Plaintiff testified that he dropped off a manuscript with his
18 employers on or about June 2006 and indicated that he intended for his
19 employers to publish the work.

20 (2) Plaintiff freely consented to Defendants' alleged use of any
21 material that Plaintiff submitted to the Wayans Defendants.

22 Key Evidence for Affirmative Defense 1 to Breach of Implied-in-Fact
23 Contract (waiver):

24 (1) Plaintiff testified that he dropped off a manuscript with his
25 employers on or about June 2006 and he made no claim for
26 compensation for services allegedly performed in conveying that
27 manuscript until filing this complaint on December 17, 2009.

28 (2) Plaintiff freely and knowingly gave up his right to have the
Wayans Defendants perform this obligation by leaving his employment
without any discussion of payment.

29 Key Evidence for Affirmative Defense 2 to Breach of Implied-in-Fact
30 Contract (Statute of Limitations):

31 (1) Plaintiff testified that he dropped off a manuscript with his
32 employers on or about June 2006 and he made no claim for
33 compensation for services allegedly performed in conveying that
34 manuscript until filing this complaint on December 17, 2009.

35 (2) Plaintiff's implied contract claim is barred by the two year statute
36 of limitations for a breach of contract claim. California Code of Civil
37 Procedure § 339.

Key Evidence Affirmative Defense 3 to Breach of Implied in Fact Contract (Laches):

(1) Plaintiff testified that he dropped off a manuscript with his employers on or about June 2006 and he made no claim for compensation for services allegedly performed in conveying that manuscript until filing this complaint on December 17, 2009.

(2) Plaintiff's delay was unreasonable based on his own testimony and the testimony of the Wayans Defendants.

(3) Plaintiff's delay was considerable and prejudiced defendants who proceeded to publish work without knowledge that Plaintiff believed he had a right to compensation. The testimony of the Wayans Defendants as well as Plaintiff's own testimony will support the elements of this claim.

Key Evidence for Affirmative Defense 4 to Breach of Implied in Fact Contract (Estoppel):

(1) Plaintiff misrepresented and/or concealed the origins of the manuscript that he dropped off with his employers based on Plaintiff's testimony as well as the testimony of the Wayans Defendants;

(2) Plaintiff intended that the Wayans Defendants act upon the assumption of the truth of that fact(s) based on Plaintiff's testimony as well as the testimony of the Wayans Defendants;

(3) the Wayans Defendants were ignorant of the true facts based on the testimony of the Wayans Defendants; and

(4) the Wayans Defendants relied to their injury upon the conduct of Plaintiff based on the testimony of the Wayans Defendants based on the testimony of the Wayans Defendants.

8. In view of the admitted facts and the elements required to establish the claims, counterclaims and affirmative defenses, the following issues remain to be tried:

Claim 1: Whether Plaintiff owns a copyright that Defendants infringed in violation of the Copyright Act, 17 U.S.C. §§ 101 *et seq.*

Claim 2: Whether Defendants Keenen Ivory Wayans, Shawn Wayans, Marlon Wayans and Wayans Bros. Productions breached an implied contract with Plaintiff under California law.

Defense 1: Whether Plaintiff's claim for breach of an implied in fact contract has been waived.

Defense 2: Whether Plaintiff's claim for breach of an implied in fact contract is barred by the applicable statute of limitations.

Defense 3: Whether Plaintiff's claim for breach of an implied in fact contract is barred by the doctrine of laches.

1 Defense 4: Whether Plaintiff is equitably estopped from asserting a claim for
2 breach of an implied in fact contract.

3 **9. All discovery is complete.**

4 **10. All disclosures under F.R.Civ.P. 26(a)(3) have been made.**

5 **The amended joint exhibit list of the parties has been filed under separate**
6 **cover as required by L.R. 16-6.1. Unless all parties agree that an exhibit shall**
be withdrawn, all exhibits will be admitted without objection at trial, except
those exhibits listed below:

7 **Plaintiff objects to Exhibit Nos.: 3, 101, 118-119, 130, 140-147, 149-151,**
8 **154-155, 157-170, 172-176, 179, 181-187, 189-228, 289-292, 294, 296, 300-302,**
9 **305-316, 318-337, 339-341, 343-381, 383-385, 388, 390, 392-393, 395, 398-400,**
10 **402-410, 412, 414-415.**

11 **The objections and grounds therefore are:**

Ex. #	Description	Ground(s) for Objections
3.	ANSWER TO COMPLAINT with JURY DEMAND BY Defendant St. Martin's Press, Inc., now known as SMP (1952) (ECF No. 18)	Hearsay (FRE 801, 802); Authentication (FRE 901)
101.	Standard Multi-Tenant Office Lease between Gilmore North Market, LLC and Wayans Bros. Productions, Inc. (Wayans_0862-0907)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901)
118.	SMK Merchandising LLC Profit & Loss Statement – January through December 2004 (Wayans_1079-1080)	Authentication (FRE 901)
119.	SMK Merchandising LLC Profit & Loss Detail – January through December 2004 (Wayans_1081-1093)	Authentication (FRE 901)
130.	5 D Comics, LLC Profit & Loss Statement – January through December 2004 (Wayans_1263)	Authentication (FRE 901)
140.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1402-1422)	Relevance (FRE 401/402); Authentication (FRE 901)
141.	Illustrations for <i>101 Ways to Know You're Married If</i> (Wayans_1445)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
142.	<i>101 Way to Know You Have a Little Piece</i> list (Wayans_1423-1426)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
143.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1446-1448)	Relevance (FRE 401/402); Authentication (FRE 901)
144.	Illustrations for <i>101 Ways to Know if You Kid's Party is Ghetto</i> (Wayans_1449-1450)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
145.	Illustrations for <i>101 Ways to Know if You're a Weed Head</i> (Wayans_1451)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
146.	Illustrations for <i>101 Ways to Know if Your Kid's Party is Ghetto</i> (Wayans_1452-1454)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
147.	Illustrations for <i>101 Ways to Know if You're a Weed Head</i> (Wayans_1457-1458)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
149.	Illustrations (Wayans_1400-1401)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
150.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1464)	Relevance (FRE 401/402); Authentication (FRE 901)
151.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1465-1485)	Relevance (FRE 401/402); Authentication (FRE 901)
154.	<i>101 Ways to Know It's Time to Move Out Yo Mama's House</i> list (Wayans_1496-1504)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
155.	<i>101 Ways to Know It's Time to Move Out Yo Mama's House</i> list (Wayans_1505-1513)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)

Ex. #	Description	Ground(s) for Objections
157.	<i>101 Ways to Know You're a Golddigger / You Know You're a Gold Digger when...</i> joke list (Wayans_1527-1532)	Relevance (FRE 401/402); Authentication (FRE 901)
158.	July 26, 2005 letter from Ahyoung to Shawn and Marlon (Wayans_1533)	Relevance (FRE 401/402); Authentication (FRE 901)
159.	Illustrations for <i>101 Ways to Know You're Having a Ghetto Christmas</i> (Wayans_1583-1585)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
160.	Illustrations for <i>101 Ways to Know Your Kid's Party is Ghetto</i> (Wayans_1514-1520)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
161.	Illustration for <i>101 Ways to Know You're Having a Ghetto Christmas</i> (Wayans_1602)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
162.	<i>101 Ways to Know that You're Jewish</i> (Wayans_1603-1604)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
163.	<i>101 Ways to Know You're a Golddigger</i> (Wayans_1605-1610)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
164.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1616-1712)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
165.	Jan. 20, 2009 memorandum from Meryl to Michelle re 1 st pass pages for <i>101 Ways to Know You're a Golddigger</i> for review (Wayans_1713-1825)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
166.	Illustrations for <i>101 Ways to Know You're a Golddigger</i> (Wayans_1826)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
167.	<i>101 Ways to Know You're a Golddigger</i> (Wayans_1827-1828)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
168.	Jokes for Illustrations (Wayans_1829-1830)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Undue Prejudice Outweighs Probative Value (FRE 403); Authentication (FRE 901)
169.	October 9, 2006 “101 notes” from Ayhoun to Layron (Wayans_1831-1832)	Relevance (FRE 401/402)
170.	<i>101 Ways to Know That You're a Golddigger</i> list (Wayans_1833-1838)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
172.	<i>101 Ways to Know it's Time to Move Out Yo Mama's House</i> list (Wayans_1851-1854)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
173.	<i>101 Ways to Know it's Time to Leave Your Moma's House</i> “script” (Wayans_1882-1884)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Undue Prejudice Outweighs Probative Value (FRE 403); Authentication (FRE 901)
174.	<i>101 Ways to Know It's Time to Leave Your Moma's House</i> lists (Wayans_1905-1917)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
175.	<i>101 Ways to Know It's Time to Leave Your Moma's House</i> lists (Wayans_1918-1921)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
176.	<i>101 Ways to Know It's Time to Leave Your Moma's House</i> lists (Wayans_1952-1956)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)

Ex. #	Description	Ground(s) for Objections
179.	Illustrations for 101 Ways to Know You're a Golddigger (SMP_00013-00113)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
181.	Edit Sheets with Handwritten Notes for <i>Golddigger</i> (SMP_00227-00351)	Authentication (FRE 901)
182.	August 26 Illustrations sent by William Morris Agency	Exhibit not identified.
183.*	Handwritten cover note from Baker Winokvr Ryder to Michael enclosing press kit for Wayans Bros. (SMP_00454)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
184.	Press kit photos (SMP_00455-00470)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
185.	July 3, 2000 article re Marlon and Shawn Wayans (SMP_00471-00473)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
186.*	Teen People magazine article (SMP_00474-00477)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
187.*	JANE article (SMP_00478-00479)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
189.*	Premier Action article/photos (SMP_00480-00486)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
190.*	Shawn Wayans Biography by BWR Public Relations (SMP_00487)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
191.*	Marlon Wayans Biography by BWR Public Relations (SMP_00488)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
192.	Griffin – Fall 2006 Launch Sheet for 101 Ways to Know (SMP_0489)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
193.	Griffin – Fall 2006 Launch Sheet for 101 Ways to Know You're a Loser (SMP_00490)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
194.	Griffin – Fall 2006 Launch Sheet for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00491)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
195.	Script and illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00492-00543)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
196.	Handwritten notes (SMP_00544)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
197.	St. Martin's Press & Tor Books Production Estimate & Final Costs for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00545-00549)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
198.	St. Martin's Press & Tor Books Production Estimate & Final Costs for 101 Ways to Know It's Time to Leave Your Mama's House (SMP_00550)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
199.	St. Martin's Press & Tor Books Production Estimate & Final Costs for 101 Ways to Know You're a Golddigger (SMP_00551)	Authentication (FRE 901); Hearsay (FRE 801, 802)

Ex. #	Description	Ground(s) for Objections
200.	St. Martin's Press & Tor Books Production Estimate & Final Costs for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00552)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
201.	Script and illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00553-00554)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
202.	St. Martin's Press Editorial Deal Sheet/Request for Contract (SMP_00555-00558)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
203.	Pre-Acquisition Operating Contribution Estimate (SMP_00559-00561)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
204.	St. Martin Press & Tor Books Production Estimate & Final Costs for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00562)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
205.	Jan. 12, 2009 Memorandum from Meryl to Michelle re 101 book for review (SMP_00563-00675)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
206.	Illustrations for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00676-00683)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
207.	Illustrations [Other] (SMP_00684-00691)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
208.	Script for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00692-00702)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
209.	St. Martin's Press Art Log for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00703-00707)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
210.	Illustrations for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00708-00807)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
211.	September 4, 2008 modifications to 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00808-00809)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
212.	Illustrations re for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00810-00814)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
213.	September 20, 2006 modifications to 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00815-00818)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
214.	September 2, 2008 modifications to 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00819-00821)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
215.	Illustrations for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_00822-00911)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
216.	Dec. 6, 2005 Pre-Acquisition Operating Contribution Estimate (SMP_00912-00914)	Authentication (FRE 901)
217.	St. Martin's Press 101 Ways to Know You're Having a Ghetto Christmas (SMP_00915)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
218.	May 20, 2009 Memorandum from Meryls to Michelle re last pass pages for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00916)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
219.	Script and illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00917-01028)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
220.	101 Ways to Know You're Having a Ghetto Christmas list (SMP_01029-01040)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
221.	Press Art Log for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01041-01044)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
222.	Illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_00145)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
223	Script and illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01146-01194)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
224.	Typed list of Ghetto Christmas Jokes with Handwritten Notes (SMP_01195-01197)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
225.	September 15, 2005 email chain between Nancy Trypuc, Elizabeth Beier, Sally Richardson, Matthew Maldacci re 101 Ways to Know You're Having a Ghetto Christmas (SMP_01198-01201)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
226.	Illustrations for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01202-01285)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
227.	Handwritten dedication for 101 Ways to Know You're Having a Ghetto Christmas (SMP_1286)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
228.	May 20, 2009 Memorandum from Meryl to Michelle re 1 st pass for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01287)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
289.	Script and illustrations for 101 Ways to Know You're Having a Ghetto Christmas with handwritten changes (SMP_01285-01389)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
290.	Illustrations for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01471)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
291.	July 11, 2008 letter from Tracy Fisher of William Morris Agency to Elizabeth Beier (SMP_01472)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
292.	List for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01473-01475)	Relevance (FRE 401/402); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
294.	List for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01982-01484)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
296.	List for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01487)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
300.	Jan. 31, 2006 letter from Eric Zohn to Holly Bash re agreement (SMP_01523)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
301.	101 Ways series 1-3 (redlines) (SMP_01524-01538)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
302.	Jan. 26, 2006 fax cover sheet from Tracy Fisler to Elizabeth Beier re signatures to contract (SMP_01539)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
305.	February 9, 2006 letter from Holly Bash to Eric Zohn enclosing fully-executed contract for 101 Ways Series 1-3 (SMP_01557)	Cumulative, Confusion, Waste of Time (FRE 403)
306.	Check number 073061 dated February 8, 2006 for \$250,001.00 (SMP_01558)	Cumulative, Confusion, Waste of Time (FRE 403)
307.	September 27, 2006 SMP Editorial Deal Sheet/Request for Contract (SMP_01559-01560)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
308.	Pre Acquisition Operating Estimate (SMP_01563-01565)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
309.	St. Martin's Press Estimate and Final Costs for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01566)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
310.	Jan. 6, 2006 email between Gabriella Oravetz and "Ezasst" and Eric Zohn (SMP_01567)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
311.	October 5, 2005 emails from Joseph Auston to Paul Steven (SMP_01568)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
312.	St. Martin's Press Contracts (SMP_01569-01613)	Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
313.	May 6, 2009 email from Ann Day re Wayans on View (SMP_01614)	Hearsay (FRE 801, 802); Authentication (FRE 901)
314.	April 13, 2006 email from Elizabeth Beier to Michelle (SMP_01615)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
315.	Letter to Rick Alvarez (SMP_0616-01618)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
316.	October 8, 2008 email from TFasst – Michelle re conference call (SMP_01619-01620)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
318.	June 2, 2006 Monaco Representatives invoice number 5428 for \$4,900 (SMP_01622)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
319.	Account Sheet (SMP_01623)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
320.	June 2, 2006 Monaco Representatives invoice number 5424 for \$4,000 (SMP_01624)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
321.	September 16, 2005 letter from Elizabeth Beier to Tracy Fisher (SMP_01625-01627)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
322.	Wayans Bros. Co-Venture Structure/Description of Co-Venture Deal Accounting (SMP_01628)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
323.	Wayans Bros. Co-publishing Venture Example/Profit Sharing v. Traditional Royalty Deal (SMP_01629)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
324.	June 26, 2007 note from Elizabeth to Matthew re 72 pieces of illustrations (SMP_01630)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
325.	June 5, 2007 Memorandum from Tracy Fisher to Elizabeth Beier Re 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01631)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
326.	September 9, 2005 note to Sally George, Matthew, Briand, Dori, and Steve re 101 Ways Series (SMP_01632)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
327.	Note "Profit Sharing" (SMP_01633)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
328	Handwritten notes re Wayans (SMP_01634)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
329.	September 15, 2005 email (SMP_01635)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
330.	September 22, 2005 email (SMP_01636)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
331.	September 22, 2005 email (SMP_01637)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
332.	September 22, 2005 email (SMP_01638)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
333.	October 7, 2005 email (SMP_01639)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
334.	Nielsen Bookscan Reports (SMP_01640-01642)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
335.	September 9, 2005 Title Sales Summaries (SMP 1643-1647)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
336.	Federal Express Label (SMP_01648)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
337.	Cover for 101 Ways to Know You're Having a Ghetto Christmas (SMP_01649)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403)
339.	Cover for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01651)	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403)
340.	Illustrations for 101 Ways to Know You're a Golddigger (SMP_01652 - 01707)	Cumulative, Confusion, Waste of Time (FRE 403)
341.	Griffin Original articles (SMP_01798-01711)	Hearsay (FRE 801, 802)
343.	Wayans Bros. Company Bio (SMP_01713-01714)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403)
344.	Guidelines for Wayans_101 Series from Tracy Fisher (SMP_01715-01716)	Hearsay (FRE 801, 802); Authentication (FRE 901)
345.	Griffin Fall 2006 Label Sheet for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01717)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
346.	July 14, 2008 article re Little Man (SMP_01718)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
347.	Articles re celebrities (SMP_01719-01720)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
348.	July 17, 2006 USA Today article re Little Man (SMP_011721-01722)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
349.	July 12, 2006 LA Weekly "Film Reviews" (SMP_01723-01725)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
350.	August 16, 2006 Eonline review of Little Man (SMP_01726)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
351.	St. Martin's Manufacturing Schedules (SMP_01727-01731)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
352.	October 23, 2005 email re Publisher's lunch (SMP_01732-01744)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
353.	Cover for 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01745)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
354.	Wayans Bros. checklist (SMP_01746)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
355.	“Wayans File” (SMP_01747)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
356	News article for Thugaboo (SMP_01748)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
357.	Notes (SMP_01749 -01750)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
358.	Handwritten notes on Memorandum from Elizabeth Beier (SMP_01751)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
359.	Handwritten notes (01752)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
360.	Illustration for 101 Ways to Know You’re Having a Ghetto Christmas (SMP_07153-07155)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
361.	September 14, 2005 email with handwritten notes (SMP_01756)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
362.	September 14, 2005 letter (draft) from Tracy Fisher (SMP_01757)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
363.	March 9, 2006/March 21, 2006 email from Karen Gills to Elizabeth Beier (SMP_01578)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
364.	September 15, 2005 email from Matthew Shear to Sally Richardson, Elizabeth Beier and George Wittle re marketing ideas (SMP_01759)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
365.	Wayans Bros. Publishing Venture Ex Profit Sharing v. Traditional Royalty Deal (SMP_01760)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
366.	William Morris Agency Offer Guidelines for 101 Series (SMP_01761-07162)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
367.	Wayans Bros. Co-Venture Structure Description of Co-Venture Deal (SMP_01763)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
368.	St. Martins Press Deal Date (Contracts) (SMP_01764-01765)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
369.	St. Martin's Press Ways to Know It's Time to Leave Yo Mama's House (SMP_01766)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
370.	101 Ways to Know You're Having a Ghetto Christmas [changes] (SMP_01767-01768)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
371.	St. Martin's Press 101 Ways to Know You're Having a Ghetto Christmas (SMP_01769)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
372.	St. Martin's Press 101 Ways to Know You're a Golddigger (SMP_01770-01771)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
373.	St. Martin's Press 101 Ways to Know It's Time to Leave Yo Mama's House (SMP_01772)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
374.	Notes from Tracy Fisher (SMP_01773-01774)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
375.	Handwritten Notes (SMP_01775)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
376.	Federal Express label (SMP_01766-01779)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
377.	July 31, 2008 Memorandum from James to Elizabeth re sample layouts (SMP_01780-01782)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
378.	July 22, 2010 Title Sales Summary (SMP_01783)	Hearsay (FRE 801, 802); Authentication (FRE 901)
379.	July 22, 1010 Marketing Expense (SMP_01784)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
380.	July 22, 1010 Historical Print/Bind Orders (SMP_01785)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
381.	Certified Copy of Certificate of Registration from the United State Copyright Office, Registration Number TX7-064-388, Effective date of registration July 6, 2009	Failure to disclose in discovery (F.R.Civ.P. 37(c)(1))

Ex. #	Description	Ground(s) for Objections
383.	SMK Merchandising Binder including Memorandum dated October 4, 2005 regarding status of projects in progress (Wayans_0347-0861)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
384.	150 Ways to Tell if You're Ghetto by Shawn Wayans, Chris Spencer and Suli McCullough, Copyrighted 1997 and published by Dell Publishing	Relevance (FRE 401/402); Cumulative, Confusion, Waste of Time (FRE 403)
385.	101 Ways to Know It's Time to Move Out Yo Mama's House list (Wayans_0247-0249)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
388.	Transaction Detail by Account for Wayans Bros. Productions (Wayans_0016-0015)	Hearsay (FRE 801, 802); Authentication (FRE 901)
390.	Transaction Detail by Account for Next to Last Productions, Inc. (Wayans_0014)	Hearsay (FRE 801, 802); Authentication (FRE 901)
392.	Transaction Detail by Account for Baby Way Productions, Inc. (Wayans_0013)	Hearsay (FRE 801, 802); Authentication (FRE 901)
393.	Vendor QuickReport for checks issued by Marlon Wayans to Jared Edwards (Wayans_0017)	Hearsay (FRE 801, 802)
395.	SMP, LLC Amended Contract for Publication of 101 Ways to Know (Wayans_0021-0035)	Authentication (FRE 901)
398.	Email from Ahyoung Kim to Jared Edwards Dated July 31, 2007 (JE_125)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
399.	Email Dated July 9, 2007 with Attachment from Ahyoung Kim to Jared Edwards (JE_126-132)	Relevance (FRE 401/402); Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
400.	Book Meeting Notes (JE_133)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)

Ex. #	Description	Ground(s) for Objections
402.	Email Exchange ending March 5, 2007 between Ahyoung Kim to Tracy Fisher, Rick Alvarez (JE_158-159)	Hearsay (FRE 801, 802); Authentication (FRE 901)
403.	Email Exchange ending February 28, 2007 between Ahyoung Kim to Tracy Fisher, Rick Alvarez (JE_160-161)	Hearsay (FRE 801, 802); Authentication (FRE 901)
404.	Email Exchange between cjsoulart.aim.com and ahyoung74@yahoo.com ending February 25, 2006 (JE_162-164)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
405.	Email from Joses Torres to ahyoungk74@yahoo.com dated February 8, 2006 (JE_165-176)	Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
406.	Email from Jose Torres to ahyoungk74@yahoo.com dated Jan. 31, 2006 (JE_177-182)	Hearsay (FRE 801, 802); Authentication (FRE 901); Cumulative, Confusion, Waste of Time (FRE 403)
407.	Email from Darren Huang to Ahyoung Kim dated February 17, 2006 (JE_186-187)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
408.	Email from Jose Torres to ahyoungk74@yahoo.com dated February 7, 2006 (JE_188-189)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
409.	Email from Jose Torres to ahyoungk74@yahoo.com dated February 7, 2006 (JE_190-191)	Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
410.	Email from Jose Torres to ahyoungk74@yahoo.com dated February 1, 2006 (JE_192-193)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
412.	Email from ahyoungk74@yahoo.com to DeJarnette Designs dated September 6, 2006 (JE_197-198)	Hearsay (FRE 801, 802); Cumulative, Confusion, Waste of Time (FRE 403); Authentication (FRE 901)
414.	December 13, 2010 Title Sales Summary (SMP 01859) (Supplements Exhibit 378)	Hearsay (FRE 801, 802); Authentication (FRE 901)

Ex. #	Description	Ground(s) for Objections
415.	June 20, 2011 Title Sales Summary (SMP 01860) (Supplements Exhibit 378)	Hearsay (FRE 801, 802); Authentication (FRE 901)

Defendants object to Exhibit Nos.: 24, 31, 346, 347, 348, 349, 350 and 403.

The objections and grounds therefore are:

Ex. #	Description	Ground(s) for Objections
24.	Checking Receipt, Payment totaling \$2,000 by Ivory Way, Inc., Next to Last Production, Inc. and Baby Way Productions, Inc., to Jared Edwards (Outside Services), dated 08/16/05 (JE_116; MW.11; SW.4; K.I.Wayans.10)	Relevancy (FRE 401-402)
31.	SMS Text Message - from 3237025651; Sent 10/25/06; Subject: <i>Had a talk with jared.</i> (SW.5; JE.12)	Authenticity (FRE 901/902) Best Evidence (FRE 1002) Relevancy (FRE 401-402) Waste of Time (FRE 403)
346.	July 14, 2008 article re Little Man (SMP_01718)	Relevancy Rules 401-402
347.	Articles re celebrities (SMP_01719-01720)	Relevancy Rules 401-402
348.	July 17, 2006 USA Today article re Little Man (SMP_011721-01722)	Relevancy Rules 401-402
349.	July 12, 2006 LA Weekly "Film Reviews" (SMP_01723-01725)	Relevancy Rules 401-402
350.	August 16, 2006 Eonline review of Little Man (SMP_01726)	Relevancy Rules 401-402
403.	Email Exchange ending February 28, 2007 between Ahyoung Kim to Tracy Fisher, Rick Alvarez (JE_160-161)	Relevancy Rules 401-402

11. Witness lists of the parties have been filed with the Court.

Only the witnesses identified in the lists will be permitted to testify (other than solely for impeachment).

Each party intending to present evidence by way of deposition testimony has marked such depositions in accordance with L.R. 16-2.7. For this purpose,

1 the following depositions shall be lodged with the Clerk as required by L.R. 32-
1: 2

2 None. The parties have agreed to lodge depositions that may be used for
3 purposes of impeachment, including the deposition of Jared Edwards.
4

5 **12. The following law and motion matters and motions in limine, and no
4 others, are pending or contemplated:**

6 After meeting and conferring with respect to the motions *in limine* proposed
7 by the Plaintiff and Defendants (collectively, the “Parties”), the Parties have agreed
8 to stipulate that the following matters shall be excluded from evidence during the
9 course of the trial:

10 A. Any evidence or argument regarding alleged “bad acts” of any of the
11 named Parties, including but not limited to any criminal activity,
12 criminal investigation, arrest, conviction, or allegations of fraud or theft.
13 Specific examples of such alleged “bad acts” which have been raised
14 during litigation, and which shall be excluded from evidence during the
15 course of trial include Defendants’ allegations that Plaintiff was accused
16 of check fraud and borrowed \$12,000 from Defendant Shawn Wayans,
17 that Plaintiff engaged in sexual acts in Defendant Shawn Wayans’
18 vehicle, that Plaintiff improperly withheld recordings of Shawn
19 Wayans’ comedy routine, and/or that Plaintiff threw a phone at Marlon
Wayans. In the event counsel claims that the door has been opened by
the other, for example, as Defendants contend, by raising the issue of
why Edwards’s employment with the Wayans was terminated, moving
counsel will seek a ruling from the Court that the door has been opened
before presenting such evidence in the presence of the jury.

B. Any evidence or argument regarding any claim (civil lawsuit,
arbitration, settlement, or demand), in any forum, initiated by or against
any of the named Parties involving either alleged copyright infringement
and/or a *Desny* claim for breach of implied-in-fact contract. In the event
counsel claims that the door has been opened by the other, moving
counsel will seek a ruling from the Court that the door has been opened
before presenting such evidence in the presence of the jury.

20 Defendants have met and conferred with counsel regarding the remaining
21 motions in limine which will be filed and heard the first day of trial, unless otherwise
ordered by the Court:
22

23 A. A motion to exclude evidence or argument that St. Martin’s Press, LLC
24 earned a profit from *Golddigger* on the grounds that it is undisputed that St. Martin’s
Press, LLC did not earn a profit and the introduction of such evidence is a waste of
time, unfair and prejudicial.
25

B. A motion to exclude evidence or argument that the Wayans earned any
profit in excess of \$166,000 for *Golddigger*.
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13. **Bifurcation of the following issues for trial is ordered:**

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None.

14. **The foregoing admissions having been made by the parties, and the
parties having specified the foregoing issues remaining to be litigated, this Final
Pretrial Conference Order shall supersede the pleadings and govern the course
of the trial of this cause, unless modified to prevent manifest injustice.**

Dated: _____

The Honorable Manuel Real
United States District Judge

Approved as to form and content:

FREEDMAN & TATELMAN, LLP

By: _____/s/
Jesse Kaplan, Esq.
September Rea, Esq.
Attorneys for Defendants Keenen Ivory
Wayans, Shawn Wayans, Marlon Wayans,
Wayans Bros. Productions and St. Martin's
Press LLC

THOMPSON WIGDOR & GILLY LLP

By: _____/s/
Kenneth P. Thompson, Esq.
Basil Sitaras, Esq.
Attorney for Plaintiff Jared Edwards